City of Marion/Marion Policemen's Protective Association 2005-2006 CEO 401 SECTOR 2

IN THE MATTER OF THE IMPASSE BETWEEN

THE MARION POLICEMEN'S PROTECTIVE ASSOCIATION,	)	IOWA PUBLIC EMPLOYMENT RELATIONS BOARD CASE NO. CEO 401/2
Union,	)	
and	)	FINDINGS OF FACT, RECOMMENDATIONS AND REPORT OF FACT-FINDER
THE CITY OF MARION,	)	
Employer.	)	

APPEARANCES

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On June 5, 2006, in Marion, Iowa, a hearing was held before Thomas P. Gallagher, Fact-Finder, who was selected by the parties under the provisions of the Iowa Public Employment Relations Act (the "Act"), as amended, to make recommendations concerning collective bargaining issues about which the parties are at impasse.

BACKGROUND

The City of Marion, Iowa (the "Employer"), is a northern suburb of Cedar Rapids. The Union is the collective bargaining representative of the non-supervisory employees of the Employer who work in its Police Department -- twenty Patrol Officers, five Detectives and six Communications Officers. Eleven non-union employees supervise these bargaining unit employees -- the Chief of Police, a Captain, three Lieutenants and six Sergeants.

Two other groups of the Employer's employees are represented by unions. The non-supervisory employees who work in the Fire Department are represented by an independent union (hereafter the "Firefighters' Union"), and the non-supervisory employees those work in the Streets Department are represented by the American Federation of State, County and Municipal Employees ("AFSCME").

The terms and conditions of employment of the employees represented by the Union are established by a labor agreement that has a three-year duration, from July 1, 2003, through June 30, 2006 (hereafter, the "current labor agreement"). The parties have settled most of the provisions of the labor agreement that will take effect at the expiration of the current labor agreement. They have agreed that the duration of the new labor agreement will be one year, from July 1, 2006, through June 30, 2007. Although the parties have settled most of the provisions of their new labor agreement, they have not been able to resolve their differences with respect to the following two impasse items, which are captioned as the parties have presented them during the hearing:

I. Health Insurance.
II. Wages.

In making my recommendations in this proceeding, I have considered, among others, the factors specified in the Act as those that must be considered by a panel of arbitrators. Section 20.22, Subdivision 9, Code of Iowa. The text of that subdivision is set out below:

> The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:
>
> a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
>
> b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
>
> c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
>
> d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

I: HEALTH INSURANCE

Article VIII, Section 1, of the current labor agreement is set out below:

> Section 1. The City will pay the complete cost of the Alliance Select or comparable health plan for the

employee and his/her family (if eligible), at deductible rates of $250 single and $500 family and out-of-pocket maximums of $750 single and $1,000 family.

The evidence does not include a full description of the health insurance plan currently provided, but it does show that the plan has a 90%-10% co-pay for in network costs and an 80%-20% co-pay for out of network costs and that it provides $500 per year of dental coverage and optical coverage in an amount not specified in the evidence.

The Employer's Position.

The Employer proposes that, for the term of the new labor agreement, the following four changes be made in the health insurance plan provided under Article VIII, Section 1:

1. Require employees to make monthly contributions to the health insurance premium of $25.00 for single coverage and $50.00 for family coverage.

2. Increase the annual deductible from $250 to $500 for single coverage and from $500 to $1,000 for family coverage.

3. Increase the out-of-pocket maximum from $750 to $1,500 for single coverage and from $1,000 to $3,000 for family coverage.

4. Change the co-pay from 90%-10% to 80%-20% for in network costs and from 80%-20% to 70%-30% for out-of-network costs.

The Union's Position.

The Union opposes the changes in the health insurance plan sought by the Employer, urging instead that there be no change in the employee's contribution to premiums, in the deductibles, in the out-of-pocket maximums or in the co-pays as established under the current labor agreement.

Findings of Fact and Recommendation.

The Employer makes the following arguments in support of the changes it proposes. It needs relief from steeply rising costs of health insurance, which should be generated by making employees at least partly responsible for the cost of health care. A group of ten Iowa cities form an appropriate group for external comparison -- Ankeny, Bettendorf, Burlington, Clinton, Fort Dodge, Marshalltown, Mason City, Muscatine, Ottumwa and Urbandale. The health insurance plans for police personnel in a majority of those cities have provisions requiring employee contributions to premiums, and all but three have a co-pay of 80%-20%. All but one have an out-of-pocket maximum for family coverage that is at least double the the out-of-pocket maximum for single coverage. Four of the cities provide no dental coverage and only two provide optical coverage.

The Employer argues that it has tried many times over the past years to negotiate some relief from health care costs, but that the Union has not agreed to make needed changes. It urges that only through the intervention of a neutral party in impasse proceedings can it obtain the relief it needs.

The Union makes the following arguments. The Employer has settled new labor agreements with the other two bargaining units of its employees without changing their health insurance plan -- the same that currently covers employees represented by the Union. In the past, it has provided some relief to the Employer -- 1) by agreeing to a 0.5% reduction in the wage increase bargained in 2001, 2) by agreeing to a split 0.5% reduction in the wage increase negotiated in 2001, and 3) by agreeing to increases in deductibles and out-of-pocket maximums in 2003. In addition, Union employees were required to accept reduced coverage in 2003 when the Employer changed insurance carriers.

I recommend the position of the Union on this item. I recognize the force of the Employer's argument that shared responsibility for the cost of health care can reduce its use by giving employees an incentive to economize, but changes in plan design that promote such shared responsibility should be achieved in negotiation and not through the impasse process. As the Union points out, it has agreed in the past to provide some relief to the Employer.

It also appears from the evidence about health care plans in the comparable group of ten Iowa cities that the comparison does not uniformly favor the changes proposed by the Employer. Thus, many of the cities have the same out-of-pocket maximum as is provided by the parties' current labor agreement and only three have higher annual deductibles.

The primary reason, however, for my recommendation of the Union's position that the health insurance plan not be changed from the current plan is that the other employees of the Employer have the same plan. Almost universally in impasse proceedings, internal consistency is the driving rationale for resolution of issues concerning health insurance. Internal consistency of health care benefits provides several important advantages -- at least, a reduction in administrative costs that flows from the use of the same plan for all employees and avoidance of the discord among employees that may come with the provision of different benefits for different employee groups.

II: WAGES

Salary schedules set out in Appendix A to the current labor agreement establish the wage rates payable to classifications within the bargaining unit represented by the Union. The salary schedules for Patrol Officers and Communications Officers are structured similarly, with eight cells or "steps" that set a starting wage rate and wage rates that increase with years of service -- after one year, after two years, after three years, after four years, after five years, after ten years and after twenty years (hereafter, for simplicity, "Start," "One Year," "Two Years", etc.). Below are set out the annual wage rates established by the salary schedules for Patrol Officers and Communications Officers, effective as of April 1, 2006:

Patrol Officer

Start	$34,406
One Year	37,846
Two Years	38,982
Three Years	40,151
Four Years	41,958
Five Years	43,741
Ten Years	45,053
Twenty Years	46,405

Communications Officer

Start	$31,156
One Year	32,090
Two Years	32,572
Three Years	33,060
Four Years	33,887
Five Years	34,903
Ten Years	35,950
Twenty Years	37,029

The salary schedule for Detectives is structured differently. The first of its five steps sets the wage rate at the start of service in the Detective's classification and the next four steps set wage rates that increase with years of service in the Detective's classification -- after three years, after five years, after ten years and after twenty years. Below are set out the annual wage rates established by the salary schedule for Detectives, effective as of April 1, 2006:

Detective

Start in the Classification	$46,292
Three Years in the Classification	46,755
Five Years in the Classification	47,340
Ten Years in the Classification	48,760
Twenty Years in the Classification	50,223

Appendix A of the current labor agreement also establishes Longevity pay of $400 after five years of service, $600 after ten years of service, $700 after fifteen years of service, $900 after twenty years of service and $1,200 after twenty-five years of service.

The Union's Position.

Patrol Officers and Communications Officers. For the new contract term, the Union proposes several changes in the salary schedules. For Patrol Officers and for Communications Officers, effective July 1, 2006, the Union proposes the following changes. First, it would increase the wage rates by 2% over those set out in the first six steps on the current salary schedule. Second, it would add a step to the schedules, to be paid to employees who have eight years of service, but not yet ten years of service. The wage rate at this new Eight-Year step would be set 3% above the wage rate at the previous step, i.e., the Five-Year step. Third, it would set the wage rate for the Ten-Year step at 3% above the wage rate thus set at the new Eight-Year step. Fourth, it would set the wage rate for the Twenty-Year step at 3% above the wage rate thus set at the Ten-Year step.

Detectives. For Detectives, effective July 1, 2006, the Union proposes the following changes. First, it would set the wage rate at the starting step at $48,753 -- the same wage rate it proposes to be paid to a Patrol Officer at the Twenty-Year step. Second, it would set the wage rate at the second step for Detectives -- the Three-Year step -- at $49,241, about 1% above the starting wage rate it proposes to be paid to Detectives and about 5.31% above the Detective's Three-Year step under the current labor agreement. Third, it would set the wage rate at the third step for Detectives -- the Five-Year step -- at $49,856, about 1.25% above the wage rate it proposes to be paid to a Detective at the Three-Year step and about 5.3% above the Detective's Five-Year step under the current labor agreement. Fourth, it would set the wage rate at the fourth step for Detectives -- the Ten-Year step -- at $51,352, about 3% above the wage rate it proposes to be paid to a Detective at the Five-Year step and about 5.3% above the Detective's Ten-Year step under the current labor agreement. Fifth, it would set the wage rate at the fifth step for Detectives -- the Twenty-Year step -- at $52,892, about 3% above the wage rate it proposes to be paid to a Detective at the Ten-Year step and about 5.3% above the Detective's Twenty-Year step under the current labor agreement.

The annual wage rates that the Union thus proposes to become effective on July 1, 2006 are set out below in salary schedule form:

Patrol Officer

Start	$35,094
One Year	38,603
Two Years	39,761
Three Years	40,954
Four Years	42,797
Five Years	44,616
Eight Years	45,954
Ten Years	47,333
Twenty Years	48,753

Communications Officer

Start	$31,779
One Year	32,732
Two Years	33,223
Three Years	33,721
Four Years	34,564
Five Years	35,601
Eight Years	36,669
Ten Years	37,769
Twenty Years	38,903

Detective

Start in the Classification	$48,753
Three Years in the Classification	49,241
Five Years in the Classification	49,856
Ten Years in the Classification	51,352
Twenty Years in the Classification	52,892

The Union also proposes to add language to the labor agreement that would "maintain the Detective's starting salary equal to that of the top-end patrol salary."

In addition, the Union proposes that, on April 1, 2007, wage rates for all classifications be increased by an additional

2% above the wage rates established by the Union's proposed wage schedules that would become effective on July 1, 2006. The Union proposes no change in Longevity pay.

The Employer's Position.

For the new contract term, the Employer proposes that wage rates for all classifications be increased by 2.75% over the wages set by the salary schedules that became effective on April 1, 2006. The Employer proposes no change in Longevity pay.

Findings of Fact and Recommendation.

The parties agree that ten Iowa cities form an appropriate group for external comparison -- Ankeny, Bettendorf, Burlington, Clinton, Fort Dodge, Marshalltown, Mason City, Muscatine, Ottumwa and Urbandale. The parties disagree about what position the population of the City of Marion would have if ranked among these ten cities. The Employer presented information showing that, by the census of 2000, Marion would rank eighth largest out of eleven. The Union presented its own estimates that Marion's population has grown since 2000, while that of some of the other cities has declined, so that Marion's ranking should be fourth largest among the eleven cities. I accept the information presented by the Union that population changes have increased the ranking of the City of Marion.

The parties disagree about how to determine the total package cost of their proposals.

The Union estimates that its wage proposals will cost an additional $88,865 for the new contract year. This estimate includes only the actual increase in wages plus, for Patrol Officers and Detectives, the increased cost of pension contributions attributable to their increased wages and, for Communications Officers, the increased cost of the Employer's contributions to FICA and IPERS. The Union argues that these cost increases are the only ones relevant to my consideration.

The Employer's cost estimates are summarized as follows. For the current contract year, July 1, 2005, through June 30, 2006, the total cost of wages and benefits for the Union's bargaining unit will have been $2,000,007. For the new contract year, adoption of the Employer's position on wages and health insurance would increase the total cost of wages and benefits for the bargaining unit by $97,945 -- or about 4.9%. This estimate includes an increase of $6,664 in the cost of health insurance over its cost of $270,021 for the current year. If the Employer's position on health insurance is not adopted and that of the Union is adopted, as I have recommended above, the cost of health insurance would rise by $21,304 rather than $6,664. For the new contract year, the Employer estimates that adoption of the Union's position on wages and health insurance would increase the total cost of wages and benefits for the bargaining unit by $145,396 -- or about 7.27%.

The information provided in the parties' estimates of cost is insufficient to reconcile the entire difference between their estimates of the cost of the Union's position. It is clear that $21,304 of the difference derives from the failure of the Union to include the increased cost to the Employer of maintaining health insurance as currently provided, and some of the difference seems to derive from failure of the Union to include increases in the cost to the Employer of paying its medicare contribution, its cost for "wellness" and its cost for workers' compensation insurance. It also appears possible that some of the difference has occurred because the parties have used different dates for some employees' qualification for a step increase, though that is not clear from the information I have before me. The best determination I can make from the information before me is that the Employer's estimate of the increase in its costs that will occur in the new contract year is closer to an accurate estimate than that of the Union.

I do not accept the Union's argument that the only relevant considerations when considering increased costs are those directly related to wages, i.e., the actual increase in wages plus the increase in the pension and retirement contributions required by the wage increase. The method used universally to determine costing in impasse proceedings is to measure the cost of all wages and benefits provided by the public employer to employees of the relevant bargaining unit, and, indeed, measuring less than the entire cost of a new term of wages and benefits would seem to have little relevance to the purpose of costing.

The Union's primary argument in support of its position is the following. For about the past nine years, the Employer has had in place a policy, Policy 2.16, that sets goals for compensation of its non-bargaining unit personnel, including the eleven supervisors in the Police Department. Below, I set out the Union's summary of the parts of Policy 2.16 that are relevant to its argument:

> Per Marion policy 2.16 "target pay" will be the comparison group average salary multiplied by 1.05 (5%). [The policy uses the same group of ten Iowa cities that the parties use in this proceeding for wage and health insurance comparisons.]
>
> Policy 2.16 states that a non-bargaining unit employee will achieve "target pay" within 18 months of promotion. This is an automatic increase achieved by simply maintaining the promoted rank.
>
> Policy 2.16 states that the non-bargaining employee can achieve a maximum salary of 120% of the calculated "target pay." A non-bargaining employee can accomplish this through across the board increases and/or "pay for performance" increases.

The Union notes that Policy 2.16 includes an explanation for setting "target pay" at 5% above the average in the comparison group -- that Marion has a "higher relative cost of living."

The Union argues that the top wage rate paid during 2005-06 to a Patrol Officer by the City of Marion and each of the ten cities in the comparison group is a representative comparison, thus:

Bettendorf	$56,513
Ankeny	50,566
Clinton	50,432
Urbandale	48,931
Marion	46,405
Mason City	45,427
Fort Dodge	44,772
Muscatine	44,158
Marshalltown	43,306
Burlington	41,121
Ottumwa	40,706
Average	46,623

The Union argues that its proposed increase in wages is justified because the annual top wage of a Patrol Officer employed by Marion is $218 below the average for the comparison group, while, according to the Union's estimates of population rankings, Marion is now the fourth largest of the eleven cities being compared. In addition, the Union argues that, if the annual wage rate for Patrol Officers was set by the "target pay" standard used in Policy 2.16, at 5% above the average for the ten cities in the comparison group, the wage rate for the current year would be $48,954.

The Union presented information showing that non-bargaining unit salaries paid by the Employer have risen substantially during the nine years that Policy 2.16 has been in place -- an effect not only of the "target pay" standard set by the policy, but of the "pay for performance" provisions that provide for permitted increases of an additional 20% above the average for similar positions in the comparison group. The Union argues that adoption of its position on wages would still leave the top wage rate for Patrol Officers slightly below what would be "target pay" if Policy 2.16 were used to determine bargaining unit wages. In addition, the Union argues that, in the future, the goal should be to set bargaining unit wages higher so that they fall about midway between "target pay" and the Policy 2.16 maximum of an additional 20% over the average of the comparison group.

The Union notes that, because Policy 2.16 has substantially increased the wage rate paid to police supervisors in the

City of Marion, the wage rate of its Patrol Officers is a very low percentage of the rates paid to supervisors --- the lowest in the comparison group.

The Employer argues that the Union's proposal that bargaining unit compensation should be determined by using administrative salaries as a standard for comparison is flawed for several reasons. The Employer argues that the standard for comparison established by Section 20.22, Subdivision 9, Code of Iowa, is the following:

> b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

The Employer argues that because the the administrative personnel that the Union would use for comparison are not "other public employees doing comparable work," it is not appropriate to make that comparison. The Employer urges that such a standard has never been used in Iowa impasse proceedings.

The Employer also urges there are essential reasons why the compensation of its bargaining unit and non-bargaining unit employees should be considered not comparable -- 1) that bargaining unit employees have security against termination of employment, while non-bargaining unit employees do not, 2) that bargaining unit employees have a required system of wage progression through the steps in the wage schedule, while non-bargaining unit employees receive discretionary increases, and 3) that no evidence shows how the duties of the supervisors in the comparison group cities compare to the duties of the

Employer's supervisors, so that it is not known from the evidence whether the Employer's supervisors are overpaid for the work they do.

The Employer also argues that its size, tax base and revenues are appropriate for a middle ranking within the comparison group of its compensation to members of the bargaining unit. The Employer presented information showing that, when career compensation of a Patrol Officer is totalled over twenty-five years of service, the Employer's ranking is above average in the comparison group, with total pay over a career about $10,000 above the average. When thus compared the Employer's ranking is between third and fifth.

In addition, the Employer argues that it ranks above average in the comparison group in the provision of other benefits to police employees --- in Longevity pay, in the educational credit program and in uniform allowance -- though the Union argues that, because the Employer's Patrol Officers must purchase their own weapons, the Employer's uniform allowance ranks below average. The Employer also notes that turnover of bargaining unit personnel has been low, with none of it explained, at least apparently, by employees seeking higher paying jobs.

The Employer argues that it is important not to depart from the pattern that has been established by the Employer's settlement with the other two unions representing its employees. Its settlement with the Firefighters' Union and with AFSCME provided a 3% wage increase and continuation of the current health insurance plan. The total package cost increase for those settlements was 5.5% for the Firefighters' Union and 6.1% for AFSCME. The Employer calculates that a similar resolution of the two impasse items before me, wages and health insurance, would have the effect of increasing its costs by $116,767 or 5.84%, which is about the average of the total package increases of 5.5% for the Firefighters' Union and 6.1% for AFSCME.

The Employer provided the following information showing wage percentage increases provided by settlements of police union contracts in seven of the ten cities in the comparison group:

Ankeny	2.00%
Bettendorf	4.75% (4 year contract)
Burlington	2%/2% (split increase)
Fort Dodge	2.75%
Mason City	3.00% (3 year contract)
Muscatine	3.5%
Urbandale	4.00% (3 year contract)

The Employer argues that there may have been factors not present in this case that explain the settlements in these cities that exceed 3%. Thus, it argues that Bettendorf and Muscatine pay less that Marion and that Urbandale is a city suburban to Des Moines with a good industrial tax base.

I recommend that wage rates be increased by 3%. Such an increase, if it is coupled with adoption of the Union's position on health insurance, as I have recommended, will provide the Union with a total package increase of about 5.84%, a substantial increase, consistent with the increases received by the other two bargaining units of the Employer's employees.

With respect to the Union's primary argument -- that much larger wage increases are justified by comparison with administrative salaries that have been inflated as a result of Policy 2.16 -- I have the following comments. I agree with the Union that these salaries are relatively high, compared to similar salaries in the comparison group, but the relative size of those salaries has limited relevance to the determination of wage rates for bargaining unit employees. As the Employer has argued, the relevant comparison established by Section 20.22, Subdivision 9, Code of Iowa, is a comparison to the wages of public employees doing similar work. The Union's argument that administrative salaries are inordinately inflated might be relevant to counter an argument that an inability to pay prevents payment of a reasonable wage increase. The Employer, however, has not raised that argument here, and, indeed, the total package cost increase of 5.84% that would result if my recommendations are adopted would provide a substantial increase, not one diminished by any budgetary concerns.

June 10, 2006

Thomas P. Gallagher, Fact-finder

CERTIFICATE OF SERVICE

I certify that on the 10th day of June, 2006, I served the foregoing Findings of Fact, Recommendations and Report of Fact-finder upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

For the Union:

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Representative
The Marion Policemen's
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For the Employer:

Mr. Gary L. Ray
President
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I further certify that on the 10th day of June, 2006, I will submit these Findings of Fact, Recommendations and Report of Fact-finder for filing by mailing it to the Iowa Public Employment Relations Board, 510 East Twelfth Street, Suite 1B, Des Moines, IA 50319.

June 10, 2006

Thomas P. Gallagher, ~~Arbitrator~~ Fact-Finder